

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES HINES,

Plaintiff,

No. CIV S-03-2385 GEB EFB P

vs.

NUCKLE, et al.,

Defendants.

ORDER

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Plaintiff is a state prisoner proceeding pro se and in forma pauperis with a civil rights action pursuant to 42 U.S.C. § 1983. On September 7, 2006, plaintiff filed a request for transfer to a different facility. Inmates do not have a constitutional right to be housed at a particular facility or institution or to be transferred, or not transferred, from one facility or institution to another. Olim v. Wakinekona, 461 U.S. 238, 244-48 (1983); Meachum v. Fano, 427 U.S. 215, 224-25 (1976); Johnson v. Moore, 948 F.2d 517, 519 (9th Cir. 1991) (per curiam). Nor does an inmate have a constitutional right to any particular classification. Moody v. Daggett, 429 U.S. 78, 88 n.9 (1976); Hernandez v. Johnston, 833 F.2d 1316, 1318 (9th Cir. 1987). Alleged deprivations of rights arising from prison officials' housing and classification decisions do not give rise to a federal constitutional claim encompassed by the Fourteenth Amendment. Board of Regents v. Roth, 408 U.S. 564, 569 (1972). State statutes and regulations

1 give rise to an interest protected by the Fourteenth Amendment only where the restraint on a
2 prisoner's liberty "imposes atypical and significant hardship on the inmate in relation to the
3 ordinary incidents of prison life." Sandin v. Conner, 515 U.S. 472, 483 (1995). Inmates have no
4 federal constitutional right to particular procedures established by state law. Toussaint v.
5 McCarthy, 801 F.2d 1080, 1096-97 (9th Cir. 1986). On the basis of these authorities, the court
6 will deny plaintiff's request.

7 On November 7, 2006, plaintiff requested the appointment of counsel. The
8 United States Supreme Court has ruled that district courts lack authority to require counsel to
9 represent indigent prisoners in § 1983 cases. *Mallard v. United States Dist. Court*, 490 U.S. 296,
10 298 (1989). In certain exceptional circumstances, the court may request the voluntary assistance
11 of counsel pursuant to 28 U.S.C. § 1915(e)(1). *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir.
12 1991); *Wood v. Housewright*, 900 F.2d 1332, 1335-36 (9th Cir. 1990). In the present case, the
13 court does not find the required exceptional circumstances. Plaintiff's motion for the
14 appointment of counsel will therefore be denied.

15 Accordingly, IT IS HEREBY ORDERED that:

- 16 1. Plaintiff's September 7, 2006, request to be transferred to a different facility is
17 denied.
18 2. Plaintiff's November 7, 2006, motion for the appointment of counsel is denied.

19 DATED: November 29, 2006

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22 EDMUND F. BRENNAN
23 UNITED STATES MAGISTRATE JUDGE
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